

AMENDED IN SENATE JULY 1, 2009
AMENDED IN SENATE JUNE 10, 2009
AMENDED IN ASSEMBLY APRIL 28, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1531

Introduced by Assembly Member Portantino

February 27, 2009

~~An act to amend Section 14310 of, and to add Article 6 (commencing with Section 14320) to Chapter 3 of Division 14 of, the~~ *An act to amend Section 13314 of the Elections Code, relating to elections.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1531, as amended, Portantino. Elections: voter ~~registration challenges.~~

Existing law allows an elector to seek a writ of mandate alleging that an error or omission has occurred, or is about to occur, in the placing of a name on, or in the printing of, a ballot, sample ballot, voter pamphlet, or other official matter, or that any neglect of duty has occurred, or is about to occur. Existing law provides that venue for these proceedings is in the County of Sacramento when the Secretary of State is named a real party in interest.

This bill would require that the Secretary of State be named as a respondent or real party in interest in any proceeding under the above provisions concerning a statewide measure or candidates for specified offices.

~~Existing law prohibits a person from registering to vote except by affidavit of registration and requires that the affidavit be received by the county elections official no later than 15 days prior to the election;~~

with specified exceptions. Under existing law, a person registered as a voter in any precinct in the state who moves from the district within 14 days prior to election day is, for the purpose of that election, entitled to vote in the precinct from which the person moved until the close of the polls on election day.

~~This bill would authorize a person who qualifies to vote in the state to register or reregister at the office of the local elections official commencing 14 days prior to election day and continuing through election day or at the person's precinct on election day. A person who registers prior to election day and provides proof of current residence would be permitted to cast a vote by mail ballot. A person who registers to vote on election day and provides proof of current residence would be permitted to cast a regular ballot at the precinct. A person who registers pursuant to these provisions and does not provide proof of current residence would be permitted to cast a provisional ballot.~~

~~The bill would also require local elections officials to compile a list or index of voters who registered or reregistered to vote pursuant to these provisions and to conduct a review no later than 30 days after the canvass of the votes for the election. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 13314 of the Elections Code is amended*
2 *to read:*

3 13314. (a) (1) ~~Any~~*An* elector may seek a writ of mandate
4 alleging that an error or omission has occurred, or is about to occur,
5 in the placing of ~~any a~~ name on, or in the printing of, a ballot,
6 sample ballot, voter pamphlet, or other official matter, or that any
7 neglect of duty has occurred, or is about to occur.

1 (2) A peremptory writ of mandate shall issue only upon proof
2 of both of the following: ~~(A) that~~

3 (A) *That* the error, omission, or neglect is in violation of this
4 code or the *California Constitution*, ~~and (B) that.~~

5 (B) *That* issuance of the writ will not substantially interfere with
6 the conduct of the election.

7 (3) The action or appeal shall have priority over all other civil
8 matters.

9 (4) *The Secretary of State shall be named as a respondent or*
10 *real party in interest in any proceeding under this section*
11 *concerning a measure or a candidate described in Section 15375,*
12 *except a candidate for judge of the superior court.*

13 (b) Venue for a proceeding under this section shall be
14 exclusively in Sacramento County in any of the following cases:

15 (1) The Secretary of State is named as a real party in interest or
16 as a respondent.

17 (2) A candidate for statewide elective office is named as a party.

18 (3) A statewide measure that is to be placed on the ballot is the
19 subject of the proceeding.

20 ~~SECTION 1. Section 14310 of the Elections Code is amended~~
21 ~~to read:~~

22 ~~14310. (a) At an election, a voter claiming to be properly~~
23 ~~registered, but whose qualification or entitlement to vote cannot~~
24 ~~be immediately established upon examination of the index of~~
25 ~~registration for the precinct or upon examination of the records on~~
26 ~~file with the county elections official, shall be entitled to cast a~~
27 ~~provisional ballot as follows:~~

28 ~~(1) An election official shall advise the voter of the voter's right~~
29 ~~to cast a provisional ballot.~~

30 ~~(2) The voter shall be provided a provisional ballot, written~~
31 ~~instructions regarding the process and procedures for casting the~~
32 ~~provisional ballot, and a written affirmation regarding the voter's~~
33 ~~registration and eligibility to vote. The written instructions shall~~
34 ~~include the information set forth in subdivisions (c) and (d).~~

35 ~~(3) The voter shall be required to execute, in the presence of an~~
36 ~~elections official, the written affirmation stating that the voter is~~
37 ~~eligible to vote and registered in the county where the voter desires~~
38 ~~to vote.~~

39 ~~(b) Once voted, the voter's ballot shall be sealed in a provisional~~
40 ~~ballot envelope, and the ballot in its envelope shall be deposited~~

1 in the ballot box. A provisional ballot cast shall remain sealed in
2 its envelope for return to the elections official in accordance with
3 the elections official's instructions. The provisional ballot envelope
4 specified in this subdivision shall be a color different than the color
5 of, but printed substantially similar to, an envelope used for a vote
6 by mail ballot, and shall be completed in the same manner as a
7 vote by mail envelope.

8 (c) (1) During the official canvass, the elections official shall
9 examine the records with respect to all provisional ballots cast.
10 Using the procedures that apply to the comparison of the signature
11 on a vote by mail ballot, the elections official shall compare the
12 signature on each provisional ballot envelope with the signature
13 on the voter's affidavit of registration. If the signatures do not
14 compare, the ballot shall be rejected. A variation of the signature
15 caused by the substitution of initials for the first or middle name,
16 or both, shall not invalidate the ballot.

17 (2) (A) Provisional ballots shall not be included in any
18 semiofficial or official canvass, except under the following
19 circumstances:

20 (i) The elections official establishes prior to the completion of
21 the official canvass, from the records in his or her office, the
22 claimant's right to vote.

23 (ii) The votes have been properly cast pursuant to Article 6
24 (commencing with Section 14320).

25 (iii) Upon the order of a superior court in the county of the
26 voter's residence.

27 (B) A voter may seek the court order specified in this paragraph
28 regarding his or her own ballot at any time prior to completion of
29 the official canvass. Any judicial action or appeal shall have
30 priority over all other civil matters.

31 (3) The provisional ballot of a voter who is otherwise entitled
32 to vote shall not be rejected because the voter did not cast his or
33 her ballot in the precinct to which he or she was assigned by the
34 elections official.

35 (A) If the ballot cast by the voter contains the same candidates
36 and measures on which the voter would have been entitled to vote
37 in his or her assigned precinct, the elections official shall count
38 the votes for the entire ballot.

39 (B) If the ballot cast by the voter contains candidates or
40 measures on which the voter would not have been entitled to vote

1 in his or her assigned precinct, the elections official shall count
2 only the votes for the candidates and measures on which the voter
3 was entitled to vote in his or her assigned precinct.

4 (d) The Secretary of State shall establish a free access system
5 that a voter who casts a provisional ballot may access to discover
6 whether the voter's provisional ballot was counted and, if not, the
7 reason why it was not counted.

8 (e) The Secretary of State may adopt appropriate regulations
9 for purposes of ensuring the uniform application of this section.

10 (f) This section shall apply to a vote by mail voter described by
11 Section 3015 who is unable to surrender his or her unvoted absent
12 voter's ballot.

13 (g) Any existing supply of envelopes marked "special-challenged
14 ballot" may be used until the supply is exhausted.

15 SEC. 2. Article 6 (commencing with Section 14320) is added
16 to Chapter 3 of Division 14 of the Elections Code, to read:

17
18 Article 6. Same Day Registration and Voting
19

20 14320. (a) Notwithstanding Section 2102, an elector who
21 qualifies to vote under this code and Section 2 of Article II of the
22 California Constitution may register or reregister to vote as follows:

23 (1) At the office of his or her local elections official
24 commencing on the 14th day prior to the election and continuing
25 through election day.

26 (2) At his or her precinct on election day.

27 (b) The elections official shall send the voter notification form
28 required by Section 2155 within 15 days after the date of the
29 election to a person who is properly registered or reregistered to
30 vote pursuant to this section, and the voter shall be registered for
31 future elections at the address for which the voter is so registered
32 or reregistered.

33 14321. (a) An elector who registers or reregisters to vote
34 pursuant to Section 14320 prior to election day, upon showing
35 proof of current residence, shall be furnished a vote by mail ballot.
36 The elector may cast the ballot as provided by Section 3018.

37 (b) An elector who registers or reregisters to vote pursuant to
38 Section 14320 on election day, upon showing proof of current
39 residence, may cast a ballot as provided in Article 4 (commencing
40 with Section 14270).

~~(e) An elector who registers or reregisters to vote pursuant to Section 14320, but who is unable to show proof of current residence, may cast a provisional ballot pursuant to Section 14310. A provisional ballot cast pursuant to this section shall be placed in an envelope distinguishable from other provisional ballot envelopes and shall not be included in a semiofficial or official canvass until the voter's right to vote is established.~~

~~14322. An elections official shall mail a nonforwardable residency confirmation postcard within 10 days of an election to a voter who registers or reregisters to vote pursuant to Section 14320 but who is unable to show proof of current residence. The postcard shall be substantially similar in form to the postcard mailed pursuant to Section 2220. If the postcard mailed pursuant to this section is returned as undeliverable within 10 days of mailing to the elections official by the post office, a provisional ballot cast pursuant to subdivision (e) of Section 14321 shall not be counted and registration or reregistration shall be canceled. If the postcard is not returned within that 10-day period by the post office, the provisional ballot shall be included in the canvass.~~

~~14323. The elections official shall compile a list or index of voters who registered or reregistered to vote pursuant to this article. Not later than 30 days after the official canvass for the election, the elections official shall conduct a review of the names on the list or index and shall cancel any duplicate voter registration that may exist.~~

~~14324. For purposes of this article, the office of the elections official may include satellite locations, as long as the requirements of subdivision (b) of Section 3018 are satisfied.~~

~~14325. The Secretary of State shall, by regulation, adopt procedures for determining the documents or other materials that constitute proof of current residence for purposes of voting under this article.~~

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~